

Water Quality Standard Variance Building Tool – Frequently Asked Questions

What is this tool?

The Water Quality Standard Variance Building Tool is an implementation support tool intended to facilitate the use of water quality standard (WQS) variances. A WQS variance is a time-limited designated use and criterion for a specific pollutant(s) or water quality parameter(s) that reflects the highest attainable condition during the term of the variance. State, territorial, or authorized tribal (hereafter referred to as “state or authorized tribe”) adoption and EPA approval of a WQS variance provides a regulatory mechanism to allow progress toward attaining a designated use and criterion that is not currently attainable. The WQS Variance Building Tool guides the user through a series of questions that result in the creation of draft regulatory language a state or authorized tribe can use as a starting point to develop and adopt a WQS variance consistent with 40 CFR Part 131.14.

What information do I need to use this tool?

The WQS Variance Building Tool guides the user through the necessary steps to develop the type of WQS variance that is appropriate for their particular water quality challenge. Below is a list of questions to help the user assemble the information they will need to use the WQS Variance Building Tool:

- **Currently Applicable Designated Uses** - What is the currently applicable designated use for the waterbody/waterbody segment the WQS variance will apply to?
- **Pollutant(s) or Parameter(s)** - What pollutant(s) or water quality parameter(s) will the WQS variance apply to?
- **Currently Applicable Criterion** - What is the currently applicable criterion for that pollutant(s) or water quality parameter(s)?
- **Location** - What is the location of the waterbodies or waterbody segments?
- **NPDES Discharger Information** - Does the state or authorized tribe expect the WQS variance to apply to one or more than one specific discharger? What is/are the National Pollutant Discharge Elimination System (NPDES) permit number(s)?
- **Attainability Challenges** - Why is the designated use not attainable? Does it differ depending on the discharger, if there are multiple dischargers involved?
- **What is the Best Condition That Can Be Attained** - What is the highest attainable condition (i.e., the condition of the waterbody or effluent that is both feasible to attain and is closest to the protection afforded by the underlying designated use and criteria)? How long might it take to achieve that highest attainable condition?

- **Authorization to Use Permit Compliance Schedules** - Does the state or authorized tribe have an EPA-approved permit compliance schedule authorizing provision in their regulations in the event a permittee may need a permit compliance schedule?

Am I required to use this tool to create a water quality standards variance?

No. EPA developed this WQS Variance Building Tool to help states and authorized tribes develop and adopt WQS variances that meet the requirements of federal regulations. Use of this WQS Variance Building Tool is optional, but it is important to note that using it does not guarantee EPA approval of the WQS variance.

Will this tool change the requirements for a water quality standards variance submission?

No. EPA designed this WQS Variance Building Tool consistent with the federal requirements to show states and authorized tribes, in a user-friendly format, what they must include in a WQS variance submission to EPA. It does not add to or alter the requirements in 40 CFR Part 131.14 or any other federal requirements.

Is the draft regulatory language created by this tool the only thing that must be submitted to EPA?

No. The draft regulatory language created by this tool is intended as a starting point for the state or authorized tribe to engage in discussions with EPA and stakeholders before adopting the WQS variance into state or authorized tribal regulations. States and authorized tribes have the discretion to tailor the draft regulatory language to include additional information to conform with their own regulations and desired format as long as all federal requirements are met. The state or authorized tribe can then adopt the WQS variance and submit it, along with all necessary supporting documentation, to EPA for Clean Water Act (CWA) Section 303(c) review. EPA recommends using the ["Checklist for Water Quality Standard Variance Supporting Documentation Requirements"](#) to determine what supporting documentation is required for each WQS variance.

Are other implementation support materials available or under development for water quality standards variances?

Yes. EPA has posted the ["Checklist For Evaluating State Submission Of Discharger-Specific Water Quality Standards Variances"](#) and the FAQ ["Discharger-specific Variances on a Broader Scale: Developing Credible Rationales for Variances that Apply to Multiple Dischargers."](#) EPA will also update its Water Quality Standards Handbook to include a chapter on WQS variances.

When should I engage in discussions with EPA about a water quality standard variance?

EPA strongly recommends that a state or authorized coordinate with its EPA Regional office early and often throughout the WQS variance process. Coordination with EPA will provide the best chance that the WQS variance submission meets the requirements of the CWA and EPA's regulations